

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

VALERY JOSAPHAT,
Petitioner,

Civil Action No. 04-1055

v.

Chief Judge Donetta W. Ambrose
Magistrate Judge Lisa Pupo Lenihan

FRANK D. GILLIS, et al,
Respondents.

ORDER

A petition for writ of habeas corpus was received in the above-captioned case by the Clerk of Court on July 7, 2004. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On December 8, 2004, the magistrate judge issued an Order notifying Petitioner that his habeas petition would not be filed or processed any further for failure to comply with the Federal Rules and Local Rules and that if he wished to proceed he must include \$5.00 for a filing fee or move to proceed *in forma pauperis* by December 28, 2004. (Doc. No. 2). Petitioner did neither, and no further docket activity occurred.

On September 21, 2005, the magistrate judge issued a Report and

Recommendation (Doc. No. 3), recommending that this case be closed for failure to prosecute. The Petitioner was served at his address of record, SCI Coal Township, 1 Kelley Drive, Coal Township, PA 17866-1021. He was advised that he was allowed ten (10) days from the date of service to file written objections to the report and recommendation. Petitioner did not file objections.

After review of the submissions and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 10th day of ^{Nov.}~~October~~, 2005;

IT IS HEREBY ORDERED that the Clerk's office mark this case CLOSED for failure to prosecute.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 3) of Magistrate Judge Lenihan, dated September 21, 2005, is adopted as the opinion of the court.

Dated:

By the Court:



Donetta W. Ambrose
Chief United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

Valery Josaphat
EG-4488
1 Kelley Drive
Coal Township, PA 17866-1021